



Beyond statistics

Measuring education as a human right

A consultative workshop on indicators for the right to education

Background Paper

The Right to Education Project
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VENUE INFORMATION

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The following document is an introduction to the framework used by the Right to Education Project (RTE Project) to develop rights-based indicators for education. It offers a series of starting points for discussion, in the hope of opening a stimulating debate on how to sharpen this initiative up and take it forward in an effective, collaborative way.

What?

Education is recognized in various international instruments as a legal right with corresponding obligations for duty-bearers. This is why compliance with this right needs to be assessed and monitored with appropriate indicators.

Since the end of the 1990s, UN bodies, agencies and mechanisms, as well as human rights academics, experts, and non-governmental organisations, have been increasingly involved in the development of rights-based indicators. The vast majority of attempts in this direction have framed indicators along the lines of structure, process and outcome. This approach has also been taken by the Office of the High Commissioner for Human Rights (OHCHR) in its most recent efforts to identify human rights indicators, including those for the right to education. At the national level, several actors have also taken the initiative to develop right to education indicators in their respective contexts. However, only few attempts have actually closely linked indicators to treaty language and interpretation. Moreover, compared to other human rights, there have been few collective efforts to develop indicators for the right to education at the international level, mainly because education has long been considered principally a development goal rather than a human right.

Measuring education as a right

While traditional development indicators evaluate education as a basic human need to be checked against development goals, right to education indicators aim to measure the extent to which States fulfil their legal human rights obligations. In addition, development indicators may tend to regard marginalised groups as recipients of aid, rather than as rights holders per se. In contrast, indicators based on education as a human right place these groups and the key principle of non-discrimination at the core of the approach. In so doing, they make these groups and violations of their rights more visible, thus creating the conditions for a culture of accountability whereby such groups are enabled and allowed to question state performance.

Traditional education indicators mainly rely on quantitative data, often disclosing very little about the qualitative aspects of the education provided. Rights-based indicators, on the other hand, aim to assess the conformity of education with human rights standards, by focussing on what goes on both in and outside the classroom. For instance, not only do they question the suitability of the infrastructure, learning material, and teaching methodology, but also consider children's socio-cultural characteristics, interaction, distribution, learning outcomes, and opportunities for stakeholders' participation. In other words, right to education indicators measure not only the right *to* education but also rights *in* and *through* education.

The Right to Education Project's indicators

Building on previous initiatives, the Right to Education Project's indicators draw from international and regional human rights law. In addition, they reflect more directly the 4-A scheme (Availability, Accessibility, Acceptability and Adaptability), while encompassing governance and including three cross-cutting principles: non-discrimination, participation and accountability.¹

¹ For a quick overview of the general structure and some samples, please refer to the Annex (page 6). For further information, please visit <http://www.right-to-education.org/node/860>.

How?

The methodology for the development of this set of indicators needs to include consideration of the following conceptual and practical issues.

Definition and scope

A. Legal basis

The international and regional legal basis of each indicator has to be provided so that users know to which human rights standard the indicator is linked.

B. Immediate obligations v. progressive realisation

Indicators need to take into account the distinction between those obligations which are to be realised immediately and those which are subject to progressive realisation. Regarding immediate obligations, a negative response given to the indicators will point to a human rights violation. This is the case for instance with the failure to achieve free and compulsory primary education. With the exception of cases of permissible positive discrimination, any other discrimination revealed by an indicator will also reflect a state's failure to comply with its human rights obligation. As for obligations subject to progressive realisation, it will only be possible to make a judgement about state (non-)compliance after applying the indicators several times at regular intervals.

C. Benchmarks

Benchmarks can be established to monitor a state's compliance with its obligation to progressively realise the right to education according to its maximum available resources. Because states do not have the same resources at their disposal, benchmarks may differ from state to state. In terms of processes, actors and elements to be considered, benchmarks can be set by civil society organisations in the light of international policy commitments. Ideally, though, there should be an agreement with state authorities as this will help to hold them accountable. Benchmarks should also adapt over time to reflect the changes in state capacity.

4-A framework

According to international human rights law, government obligations relating to the right to education can be framed according to "4 As": Availability, Accessibility, Acceptability and Adaptability. Each of them has specific relevance to the use of indicators and highlights aspects that require further analysis.

Availability: making sure that a sufficient number of schools is available is not enough. States have the obligation to ensure that free and compulsory education is available for all children within an age range and up to the minimum age for employment. In addition, they have to make sure schools have appropriate infrastructures and facilities. → Amongst other aspects, indicators should check if schools have intake capacity that is sufficient to enrol and maintain all school-age children in school up to the minimum age for employment. They should also measure whether schools have an adequate number of sanitation facilities, access to adequate clean drinking water, electricity, etc.

Accessibility: under all human rights treaties, states have the obligation to eliminate any form of discrimination on the basis of internationally prohibited grounds such as race, sex, economic status or disability. Education has to be accessible to all. This includes, for instance, the elimination of school fees and indirect costs such as textbooks and uniforms but also affirmative action to provide for the most marginalised. → Right to education indicators should verify if primary education is free or for fee and question whether access to school is safe and if education is provided, for example, in retention centres for refugee or migrant children.

Acceptability: states have the obligation to ensure that education is acceptable to children, parents and teachers. This means that the contents and methods of education must be of relevance and good quality and that the human rights of all those involved must be upheld in education. → In order to measure if education is acceptable, indicators need to question such issues as curriculum relevance, school discipline, unsatisfactory teacher's salaries, and the impact of gender, language and religion.

Adaptability: states have the obligation to ensure that diverse abilities and situations are taken into account. This means making education more adaptable to the child. Education should contribute to the challenging of inequalities or abuses. For example, it should prevent children from engaging in the worst forms of child labour while at the same time adapt to their need to engage in non-harmful work in order to support the family. Education should also adapt to the needs of traditionally excluded groups such as minorities, persons with disabilities, prisoners, children in armed conflict or emergencies, etc. → Right to education indicators should evaluate how adaptable education is in such contexts and should be fully disaggregated.

D. Answers

When the indicator is identified by a question, the type of answer should be included. There are four kinds of possible answers and related terms:

1. Percentages (where it is necessary to explain what the numerators and denominators are);
2. Ratios (where it is necessary to define the method of computation);
3. Yes/No answers (where it is necessary to consider nuances such as: strongly disagree, slightly disagree, neutral, slightly agree and strongly agree);
4. Multiple choice answers (where the list of possible answers must be clearly provided and include an open category such as “other” or a blank space for writing the answer).

Data availability

Data availability is probably one of the most delicate questions with respect to human rights indicators. On the one hand, human rights indicators must not be overly determined by the data that is available. They must primarily be established according to the content of international and regional human rights treaties. Human rights indicators should also be an incentive to collect human rights-related data and to disaggregate available data by vulnerable groups. On the other hand, considering data availability is a necessary step in making sure the indicators can effectively be applied. Unfortunately, some data might be too difficult or too costly to collect, thus limiting application.

A. Data sources

Data sources for the indicators should preferably be multiple. Sometimes official data could be unreliable and should therefore be supplemented by data collected by civil society organisations. In this sense, alternative or more qualitative methods of data collection could provide very valuable information. In any case, guidance should be provided on the data required for each indicator.

B. Partnerships

Data collection requires the cooperation of various actors. At the international level, international agencies already collect data for indicators. However, state authorities should also be encouraged to gather information. Statistical institutes should be involved in the process of gathering data and should be encouraged to integrate human rights into their mandates. Civil society organisations also collect human rights-related data. However, they have only limited resources and cannot be overly relied on for this purpose. Where national human rights institutions exist, these could also be involved in data collection. Finally, parents and teachers associations should participate in the process. Clear guidance should be given regarding who will provide the information and where it can be found. It may however be the case that no partnerships are possible, with the result that the users have to collect data by themselves.

Application

The most important aspect of human rights indicators is their practical application: going beyond theory to develop and refine indicators through practice. Indeed, human rights indicators should be continuously adapted during and after their application to make them fully operational. Therefore, they should be applied repeatedly, which is also necessary to track a state’s progress towards the full realisation of human rights.

Field testing of right to education indicators requires consideration of the following issues:

- A. Making the general set of indicators more manageable and user-friendly by identifying a specific focus of application;
- B. Adapting the general set of indicators to the chosen focus and to a particular context (country/region/situation).

A. Identifying the foci

There are three types of possible foci:

- Groups
 - girls; women; persons with disabilities; child labourers; migrants; persons affected by HIV/AIDS; children living in poverty; prisoners; minorities; indigenous people; etc.
- Situations
 - armed conflict; civil unrest; natural disaster; HIV/AIDS; poverty; etc.
- Issues
 - primary education; teachers; plans of action; out-of-school children; etc.

Focussing on groups is the best way to start applying the indicators for two reasons. First, it limits the data necessary for analysis, thus facilitating the whole process. Second, it ensures that the selected indicators are all essential (or core) indicators, since the principle of non-discrimination is central to international human rights law.

Evaluating specific situations is also a good way of applying the indicators because it allows users to discern which indicators are most relevant to the situation in question and how to give priority accordingly. Additionally, it brings the indicators closer to reality because it requires linking them to particular events instead of applying them in general.

Focussing on issues also has an advantage as it allows for prioritising within the set of right to education indicators by focussing on aspects that are considered fundamental for the realisation of the right to education under international human rights law.

Within such a classification, it is also possible (and at times indeed desirable) to combine groups, thus addressing multiple forms of discrimination. This would further examine states' compliance with the principle of non-discrimination. Moreover, it often happens that a group's vulnerability to discrimination is closely related to a particular situation so that the focus covers two categories and the subsequent analysis is enhanced.

B. Selecting and adapting the indicators

In order for indicators to be meaningfully applied on the ground, it is necessary to take into account contextual limitations and opportunities such as national or local legislation, practices and data availability. This type of contextualization is crucial not only to narrow down the focus, but also to make the indicators more reflective of reality. A more contextualised, specific, compact set of indicators can thus be used in various contexts/countries/areas, provided it is adapted to what is most relevant there (which can only be done after discussing with field partners with local knowledge and experience). In so doing, it is essential that indicators under all the 4 As, as well as the Governance Framework, are applied for each focus. In addition, a balance must be established between focussed indicators and other indicators which are relevant but not specifically related to the focus chosen. How many indicators of the second category should be included must be evaluated on a case-by-case basis.

The indicators should also be adapted to the cross-cutting principles (non-discrimination, participation and accountability), where necessary. Non-discrimination is dealt with by disaggregation. When the focus is a group, the indicators will have to be disaggregated by that group. When the focus is an issue, indicators should be disaggregated by all categories/groups/grounds that are relevant to that issue. Participation will vary according to the focus because the actors involved in realising the right to education will be different. Accountability will also have to be adapted on a case-by-case basis, because

the actors responsible in each situation might vary and also because the focus might concern specific actors.

Why?

Identifying appropriate and effective indicators of compliance with the right to education is crucial to:

- ensure assessment and monitoring of the full range of corresponding obligations;
- unveil hidden violations;
- ensure accountability.

In this sense, rights-based indicators can help actors to:

- submit policy briefings and make recommendations to the government so that it improves its human rights record. This can lead to a concrete dialogue with the state's authorities on how to reach this objective;
- provide evidence for judicial proceedings and inform courts on human rights issues before they make their decisions;
- raise awareness and develop a better understanding of state obligations relating to the right to education;
- assist the development community and other non-legal actors in understanding the functions of human rights law and to prioritise efforts and funding;
- enable stakeholders to ask relevant questions to governments.

Who?

Creating partnerships with different stakeholders can help define a more coherent package that fully corresponds to human rights obligations as well as targeted, smaller sets that can be used for specific tests.

The RTE Project's indicators for the right to education offer an opportunity for collaboration with and among a wide range of partners:

- **Governments:** to ensure compliance with the right to education, identify out-of-school children and improve access to and quality of education;
- **External review bodies:** to assess and monitor compliance with human right instruments;
- **Donors:** to further help track the impact and effectiveness of the funds given to education aid and encourage and support governments to use rights-based indicators in their monitoring activities;
- **NGOs:** to carry out field tests or to develop tools for civil society monitoring and advocacy, especially at the local level, led by national education coalitions;
- **Academia:** to conduct research, provide analysis, develop legal briefings and support advocacy tools.

ANNEX

GENERAL STRUCTURE

Governance Framework	Availability Indicators	Accessibility Indicators	Acceptability Indicators	Adaptability Indicators
Normative framework Educational policy Plan of action Recourses Monitoring Budget International assistance and cooperation	Early childhood care and education Primary education Secondary education (including training and vocational education) Tertiary education (including training and vocational education) Fundamental education Adult basic and literacy education Educational and vocational information and guidance Private schools Closing schools School infrastructure	Physical obstacles Economic obstacles Administrative obstacles Gender obstacles Socio-cultural obstacles Out-of-school children Religion	Skills Tolerance Discipline Gender Qualification of teachers Language	Child labour Child soldiers Minorities Persons with disabilities Prisoners Armed conflict

SAMPLE INDICATORS

GOVERNANCE FRAMEWORK

Indicator

GF.3 Plan of action

GF.3.2. What is the coverage of the plan of action? Does it aim to achieve free and compulsory primary education? Does it prioritise on vulnerable groups?

Discrimination	Participation	Accountability
Girls Low-income groups Minorities Specific regions Rural areas Working children Persons with disabilities Migrants Refugees Internally displaced or other "internal migrants" Prisoners Child soldiers Other	Was civil society consulted when drafting the plan of action? Can civil society participate meaningfully in monitoring the plan of action?	Which body is responsible for monitoring the plan of action? Does it monitor intermediate benchmarks at reasonable intervals? <ul style="list-style-type: none"> <yearly yearly >yearly

Sources:

Article 14, ICESCR; Article 28 (1) (e), CRC; Article 17 (2), (Revised) European Social Charter; Article 11 (3) (d), African Charter on the Rights and Welfare of the Child

Associated indicators: Primary education (Availability); Physical obstacles, Economic obstacles, Administrative obstacles and Gender obstacles (Accessibility); Child labour, Child soldiers, Minorities, Disability and Prisoners (Adaptability)

AVAILABILITY

Indicator

A1.10 School infrastructure

A1.10.1. % Schools with buildings reported in good shape, including: an adequate number of well-appointed classrooms (sufficient blackboard, tables, desks, chairs and space per class), an adequate number of sanitation facilities, access to adequate clean drinking water, electricity, ventilation and light, fire exits and first-aid kit, medical assistance, canteens, recreational facilities, sufficient recreation ground, other

Discrimination	Participation	Accountability
by primary, secondary, tertiary level by region by rural/urban by minority schools only for girls	Can parents, children and community leaders contribute to decision making regarding infrastructure?	Is there a monitoring body controlling schools' infrastructure?

Sources:

Article 13 (2), ICESCR; Article 28 (1), CRC; Article 17 (2), (Revised) European Social Charter; Article 13 (3), Protocol of San Salvador; Article 11 (3), African Charter on the Rights and Welfare of the Child

Associated indicators: Primary education, Secondary education (including training and vocational education) and Tertiary education (Availability)

ACCESSIBILITY

Indicator

A2.2 Economic obstacles

A2.2.3. Tuition fees for primary education

Discrimination	Participation	Accountability
by minority, disability, by origin (national, ethnic, social) by region by rural/urban by public/private	Can parents, children and community leaders contribute to the formulation of strategies to identify out-of school children of low-income groups, to encourage their school attendance and reduce their drop-out rates?	Is there a monitoring body evaluating the direct, indirect and opportunity costs of primary education? Is there a complaint mechanism for such costs?

Sources:

Article 13 (2) (a), ICESCR; Article 28 (1) (a), CRC; Article 17 (2), (Revised) European Social Charter; Article 13 (3) (a), Protocol of San Salvador; Article 11 (3) (a), African Charter on the Rights and Welfare of the Child

Associated indicators: Primary education and Private schools (Availability)

ACCEPTABILITY

Indicator

A3.4. Gender

A3.4.3. What is the proportion of pictures of men/women in textbooks? Is the representation of both sexes unbiased? Are household activities not only confined to women and important positions not only occupied by men? Are females portrayed as inferior and males as superior in textbooks? Are girls encouraged to take more vocational and less technical courses than boys? Are there campaigns to combat stereotypes?

Discrimination	Participation	Accountability
by primary/ secondary/ tertiary level by region by rural/urban by minority		Is there a monitoring body controlling whether textbooks include stereotypes?

Sources:

Article 10 (c), CEDAW; Article 12 (1) (b) and (2) (b), Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

Associated indicators: Monitoring (Governance Framework); Gender obstacles (Accessibility)

ADAPTABILITY

Indicator

A4.4. Persons with disabilities

A4.4.4. Do teachers in mainstream schools receive special support? Do their working conditions (eg. number of hours, teacher/pupil ratio) allow them to help children with disabilities to integrate into classes?

Discrimination	Participation	Accountability
by primary/ secondary/ tertiary level by region by rural/urban		Is a monitoring body controlling whether schools meet the conditions for sending children to special schools? Can parents and children complain about decisions to send their children to these schools before an independent body?

Sources:

Article 24 (4), CRDP

Associated indicators: Qualification of teachers (Acceptability)

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